

MS PETITION
PATENT
1028-0171P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: LEDOUX, et al. Conf.: 7224
Appl. No.: 09/822,864 Group: 2881
Filed: April 2, 2001 Examiner: K.T. NGUYEN
For: METHOD AND SYSTEM FOR CONTROLLING BEAM
SCANNING IN AN ION IMPLANTATION DEVICE

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

February 17, 2004

Sir:

Applicants hereby petition for withdrawal of the abandonment identified in the Notice dated December 18, 2003, a copy of which is attached hereto as Exhibit 1 to this Petition. The basis for this Petition to withdraw abandonment is that no response was required in order to maintain the present application pending for the following reasons.

Discussion of the Facts:

1. On February 16, 2003, the Examiner issued a Restriction Requirement restricting the claims between Group I directed to the subject matter of claims 1 and 2 and Group II directed to the subject matter of claims 3-9.

2. On April 28, 2003, Applicants timely filed a Response to this written Restriction Requirement electing, with traverse,

Group II including claims 3-9. Reasons in traversal were presented and it was argued that claims 1 and 2 should be examined with claims 3-9.

3. On May 22, 2003, the Examiner issued another office action. A copy of this office action is attached as Exhibit 2. This office action indicated claims 3-9 allowed, the Examiner granting Applicants one month to cancel the non-elected claims or take appropriate action. As stated in the Examiner's Office Action:

"Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner' Amendment and pass the case to issue."

4. Despite this above-mentioned statement, the Patent Office inadvertently abandoned the present application in the Notice of Abandonment dated December 18, 2003. The reason for this abandonment was "no reply has been received."

Discussion:

As indicated by the above-quoted passage from the Advisory Action dated May 22, 2003, failure to take action was to be treated as an authorization to cancel the claims non-elected as a result of the restriction requirement and pass the rest of the application, including claims 3-9, to issue. The office action clearly indicated that failure to respond would result in cancellation of claims 1, 2 and allowance of the remaining claims. Consequently, by the specific terms of this Office

Action, the issuance of the Notice of Abandonment dated December 18, 2003 was obviously in error.

For all the reasons set forth in the present Petition, the Patent Office is respectfully requested to withdraw the improper holding of abandonment and issue the present application including claims 3-9 after cancellation of claims 1 and 2, as expressed in the written Office Action of May 2, 2003 and as accepted by Applicants.

Should the Examiner have any questions concerning the present Petition, or should any facts be ambiguous, the Examiner is invited to contact the undersigned by telephone to discuss this matter.

It is submitted that no fees are required for filing this Petition, since the error occurred because of a mistake on the part of the U.S. Patent and Trademark Office.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLBSCH & BIRCH, LLP

By

Michael K. Mutter, #29,680

MKM/lab
1028-0171P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

BWT

P542221000 ~~REB CROSS REF~~
EL 21/1/04



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,864	04/02/2001	Robert Joseph Ledoux	004600	7224
32588 7590 12/18/2003				
APPLIED MATERIALS, INC. 2881 SCOTT BLVD. M/S 2061 SANTA CLARA, CA 95050				
EXAMINER NGUYEN, KIET TUAN				
ART UNIT		PAPER NUMBER		
2881				

DATE MAILED: 12/18/2003

ABN

Please find below and/or attached an Office communication concerning this application or proceeding.

RTA 1/18 -

no notification of intent to
ABN

RECD JAN 5 2004

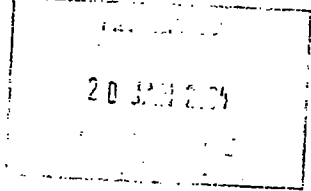


Exhibit 1

Notice of Abandonment

Application No.

09/822,864

Examiner

Kiet T. Nguyen

Applicant(s)

Ledoux et al.

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 22 May 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

2664

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,864	04/02/2001	Robert Joseph Ledoux	004600	7224

32588 7590 05/22/2003

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

EXAMINER

NGUYEN, KIET TUAN

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 05/22/2003

FBI 8:22
APP 8:22
Dead 11:22

Please find below and/or attached an Office communication concerning this application or proceeding.

COMPUTER ENTERED

MAY 29 2003

2003 MAY 29 11:00

Exhibit 2

Office Action Summary

Application No.

09/822,864

Applicant(s)

Leduc et al.

Examiner

K. AGUYEN

Group Art Unit

7881

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 04-28-03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-9 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-9 are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received

In this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Applicant's election with traverse of Group II including claims 3-9 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the action does not indicate the reasons that make claims to be distinct. This is not found persuasive because the Group I including claims 1-2 drawn to a method and/or system for controlling a waveform, while the Group II including claims 3-9 drawn to a method and/or scan controller for controlling the current of the magnet field in a magnet winding of a charged particle beam system, since the waveform of the system (for example: the waveform of the sound, the image etc. ...) and the waveform of the current of a magnetic winding in the charge particle beam apparatus are different applied controlling devices, thus the Groups I and II are distinct.

The requirement is still deemed proper and is therefore made FINAL.

This application is in condition for allowance except for the presence of claim 1-2 to an invention non-elected with traverse in Paper no. 7. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Reasons for indicating allowable subject matter

The prior art fails to disclose a method and/or scan controller for a charge particle beam system having the limitation(s) as recited in part g) of claim 3; part VI) of f) of claim 6; or means for comparing a period of a feedback signal with a period of a target waveform to produce an error signal representing the difference in the waveforms of the periods and means for modifying subsequent periods of a scan drive signal to reduce the error signal as recited in claim 9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner *Kiet T. Nguyen* whose telephone number is (703) 308-4855.
571-272-2479

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9319.

K.T.N/Primary
May 19, 2003



KIET T. NGUYEN
PRIMARY EXAMINER

Form PTO-1449

ATTY DOCKET NO.

04600/USA/TCG/ORION
/LE

APPLICATION NO.

09/822,864

BSKB DOCK, NO. 1028-
0171P

**INFORMATION DISCLOSURE CITATION
IN AN APPLICATION**

APR 08 2003

(Use several sheets if necessary)

APPLICANT

LEDOUX ET AL.

FILING DATE

April 2, 2001

GROUP

2881

U.S. PATENT DOCUMENTS

INITIAL	DOCUMENT NUMBER	Kind	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
EN	US 5,483,077	B1	1996-01-09	Glavish	—	—	
	US 6,037,583	B1	2000-03-14	Moehler et al.	—	—	
	US 5,672,879	B1	1997-09-30	Glavish	—	—	
	US 4,733,091	B1	1988-03-22	Robinson et al.	—	—	
	US 5,229,615	B1	1993-07-20	Brune et al.	—	—	
	US 4,494,005	B1	1985-01-15	Shibata et al.	—	—	
	US 4,922,106	B1	1990-05-01	Berrian et al.	—	—	
EN	US 6,525,327	B1	2003-02-25	Mitchell et al.	—	—	
	US						
	US						

FOREIGN PATENT DOCUMENTS

	Office	DOCUMENT NUMBER	Kind	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION	
								YES	NO
EN	EP	0 975 004		2000-01-26	EP	—	—		
EN	EP	0 457 321		1991-11-21	EP	—	—		
EN	WO	99/13488		1999-03-18	PCT	—	—		

OTHER DOCUMENTS

(Include Name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.)

EXAMINER

K. NGUYEN

DATE CONSIDERED

05-13-03

EXAMINER: Initial if citation considered, whether or not citation is in conformance with M.P.E.P. 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1028-0171P

MKM/JPK/kmr

Notice of References Cited			Application No. 09/822,864		Applicant(s) Lefkowitz et al.	
			Examiner K. ALTYER		Group Art Unit 2851	
Page <u>1</u> of <u>1</u>						
U.S. PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	NAME		CLASS	SUBCLASS
A	6,525,327	2/25/03	Mitchell et al.		250	49221
B						
C						
D						
E						
F						
G						
H						
I						
J						
K						
L						
M						
FOREIGN PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
N						
O						
P						
Q						
R						
S						
T						
NON-PATENT DOCUMENTS						
*	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)					DATE
U						
V						
W						
X						

* A copy of this reference is not being furnished with this Office action.
(See Manual of Patent Examining Procedure, Section 707.05(a).)

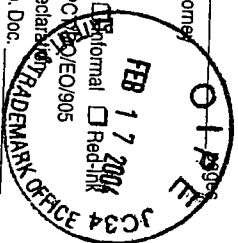
Papers Filed herewith on: 2-17-04
DOCKET NO.: 1028-0171P ATTY: MEM
APPLICANT(S): LEDAUC, et al.
APPL. NO.: 09/622,824 FILED: 2-2-01
PAT NO.: _____

- ☐ New Application with Transmittal Letter
- ☐ Utility ☐ Design ☐ CIP ☐ PCT ☐ Provisional
- ☐ Filing Under 37 CFR 1.53(b) ☐ CONT ☐ DIV
- ☐ Filing Under 37 CFR 1.114(RCE)
- ☐ Specification Consisting of: _____
- ☐ Combined Declaration & Power of Attorney
- ☐ Assignment / Cover Letter
- ☐ Letter to Official Draftsman
- ☐ Drawings _____ Sheets ☐ Formal ☐ Informal ☐ Red-Ink
- ☐ Completion of Filing Requirements, PC/EO/EO 905 or Formalities Letter and Executed Declaration
- ☐ Priority Document(s) / Cover Letter, No. Doc. _____
- ☐ Amendment: _____

- ☐ Transmittal Ltr ☐ Large Entity ☐ Small Entity
- ☐ Response _____
- ☐ Information Disc Stmt, PTO-1449(s) _____ doc(s)
- ☐ PTO / ISA / 210

- ☐ Notice of Appeal ☐ Appeal Brief
- ☐ Issue Fee Transmittal ☐ Sequence Listing
- ☐ FEES: _____
- ☐ Letter: _____

☒ Other: Section 101 withdrawn
the applicant's
claim is not
patentable
under 35 U.S.C. 101
Receipt is hereby acknowledged of the papers filed as
indicated in connection with the above identified case.
COMMISSIONER OF PATENTS AND TRADEMARKS
Due Date: 2-18-04
Handcarry: _____



DOCKET NO. 1028-0171P

CERTIFICATION OF MAILED DOCUMENT(S) TO U.S.P.T.O.

The undersigned hereby certifies that the correspondence indicated on the attached photocopy of the postcard receipt **was reviewed and found to be in proper order** for filing in the U.S.P.T.O. by

☐ Certificate of Mailing Procedures (This correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

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Alexandria, VA 22313-1450

☒ Hand Carry to the U.S.P.T.O. mailroom by BSKB COURIER on the below indicated date.

☐ Telefaxed to the U.S.P.T.O. on the below indicated date in accordance with the procedures for faxing documents to the U.S.P.T.O. Upon successful transmission to the U.S.P.T.O., a copy of the facsimile Transaction Report will be attached herewith.

Signed: Leslie

Date: 2-17-04

APPL. NO.:

ATTORNEY DOCKET NO.:

RESPONSIBLE ATTY./SECY.:

DUE DATE:

Papers Filed herewith on: 2-17-04
DOCKET NO.: 1028-171P ATTY.: MM
APPLICANT(S): LEDOUK, et al.
APPLN. NO.: 09/822,864 FILED: 2-2-01
PAT NO.:

☐ New Application with Transmittal Letter
☐ Utility ☐ Design ☐ CIP ☐ PCT ☐ Provisional
☐ Filing Under 37 CFR 1.53(b) ☐ CONT ☐ DIV
☐ Filing Under 37 CFR 1.114(RCE)
☐ Specification Consisting of: _____ pages
☐ Combined Declaration & Power of Attorney
☐ Assignment / Cover Letter
☐ Letter to Official Draftsman
☐ Drawings _____ Sheets ☐ Formal ☐ Informal ☐ Red-Ink
☐ Completion of Filing Requirements, PCT/DO/EO/905 or Formalities Letter and Executed Declaration
☐ Priority Document(s) / Cover Letter, No. Doc. _____
☐ Amendment: _____
☐ Transmittal Ltr ☐ Large Entity ☐ Small Entity
☐ Response
☐ Information Disc. Stmt. PTO-1449(s) _____ doc(s)
☐ PTO/ISA/210
☐ Notice of Appeal ☐ Appeal Brief
☐ Issue Fee Transmittal ☐ Sequence Listing
☐ FEES: _____
☐ Letter: _____

☒ Other: Petition for Withdrawal
the Holding of
Abandonment w/

Receipt is hereby acknowledged of the papers filed as indicated in connection with the above identified case.

DOCKET NO. 1028-0171P

/30/03)